IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

SATURDAY, THE 18TH AUGUST 2007 / 27TH SRAVANA 1929

WP(C).No. 10205 of 2006(M)

PETITIONER:

P.GOPINATHAN,
ADDITIONAL VILLAGE OFFICER,
LAKKADI-PEROOR I VILLAGE,
MANGALAM.P.O, PALAKKAD.

BY ADV. SRI.N.SUGATHAN
SMT.VARSHA BHASKAR

RESPONDENTS:

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1. **THE STATE OF KERALA,**
   REPRESENTED BY THE SECRETARY TO GOVERNMENT,
   REVENUE DEPARTMENT,
   SECRETARIAT,
   THIRUVANANTHAPURAM.

2. **THE COMMISSIONER OF LAND REVENUE,**
   THIRUVANANTHAPURAM.

3. **THE DISTRICT COLLECTOR,**
   PALAKKAD.

BY GOVERNMENT PLEADER SRI. BASANT BALAJI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.10205/2006 M

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF ORDER DTD. 18/02/91 OF THE 3RD RESPONDENT.**

EXT.P2: **COPY OF ADMISSION TICKET DTD. 22/07/1989.**

EXT.P3: **COPY OF LETTER DTD. 4/02/91 OF THE P.S.C.**

EXT.P4: **COPY OF ORDER NO.E4-6946/95 DTD. 29/01/2003.**

EXT.P5: **COPY OF THE CERTIFICATE DTD. 19/11/1983.**

EXT.P5(A): **COPY OF THE CERTIFICATE DTD. 18/02/2000.**

EXT.P5(B): **COPY OF THE CERTIFICATE DTD. 4/02/2000.**

EXT.P6: **COPY OF ORDER NO.A1-42892/2000 DTD. 14/03/2001.**

EXT.P7: **COPY OF REPRESENTATION DTD. 28/06/2004 TO THE 3RD RESPONDENT.**

EXT.P8: **COPY OF REPRESENTATION DTD. 7/08/2004 TO THE 2ND RESPONDENT.**

EXT.P9: **COPY OF SENIORITY LIST OF UDC/SVO PUBLISHED IN PROCEEDINGS DTD. 11/08/2004.**

EXT.P10: **EXTRACT OF SENIORITY LIST OF UDC/SVO PUBLISHED IN PROCEEDINGS DTD. 1/12/2005.**

EXT.P11: **COPY OF LETTER NO.A2-6117/04 DTD. 22/11/2005 OF TAHSILDAR, OTTAPPALAM.**

/TRUE COPY/

P.A.TO JUDGE

KSS

ANTONY DOMINIC,J.

W.P (C) No.10205 of 2006

Dated this the 18th day of August, 2007

J U D G M E N T

This writ petition is filed seeking to quash Exhibit-P11 and for directing the respondents to promote the petitioner to the category of Upper Division Clerk/Special Village Officer from June, 1999 and to assign him seniority in the final seniority list with effect from June 1999 when he passed the departmental test. Petitioner also seeks all consequential reliefs.

2. On 1.6.1981 petitioner entered service as a Village man. He passed S.S.L.C standard test conducted by the Public Service Commission in the examination was held on 5.8.1989. Subsequently, by Exhibit-P3 dated 4.2.1991 he was included in the rank list of candidates for appointment by transfer to the post of Lower Division Clerk. While so, he was promoted to the post of Village Assistant by Exhibit-P1 order dated 18.2.1991.

3. Still later on 29.11.2002 he was adviced for appointment as Lower Division Clerk in the Scheduled Tribes Development Department on 29.11.2002 and on the strength of such advice, Exhibit-P4 order dated 29.1.2003 was issued appointing him as Lower Division Clerk in the Scheduled Tribes Development Department. As he had got promotion as Village

Assistant, he did not accept the appointment as Lower Division Clerk and continued as Village Assistant. In the mean time he had passed the Departmental Test by June 1999 and Exhibit-P5 series proves this claim. He was promoted as Additional Village Officer by Exhibit-P6 order dated 14.3.2001.

4. He was governed by the Revenue Ministerial Subordinate Service Rules and on the strength of Rule 8, petitioner submitted Exhibits -P7 and P8 representations explaining that he had completed 23 years of total service as on 26-6-2004 and hence he may be granted higher grade. This was turned down by Exhibit-P11 informing him that S.S.L.C standard test conducted by the Public Service Commission is not an alternate qualification of S.S.L.C prescribed in the rule and that he was not advised in the Revenue Department on the strength of S.S.L.C. Standard test passed by him. It is seeking to quash Ext.P2 and claiming promotion as U.D.C with effect from the date on which his junior was promoted viz., 1.11.1998, that the petitioner has filed this writ petition.

5. The only issue that arises for consideration is the impact of Rule 8 of the Special Rules which provides as follows:

> **Minimum General Educational Qualification: -** No person shall be eligible for appointment to any category unless he possesses the minimum general educational qualification of S.S.L.C Standard or a pass in the S.S.L.C Standard Test conducted by the Kerala Public Service Commission for appointment as Clerk.
>
> Provided that the persons coming under category (3) (a) Additional Village Officer and Category (4) (a) Additional Village Assistant shall be allowed to continue as such till they acquire the said minimum general educational qualification.

6. Learned Government Pleader would argue in support of Exhibit-P11 on the basis that in the Special Rules, a note has been provided that an Additional Village Officer on acquisition of S.S.L.C. qualification shall be absorbed in the category of U.D.C/S.V.O only with effect from the date of acquisition of such qualification. Reading this he would contend that possession of S.S.L.C. qualification is the prescribed minimum qualification for absorption to the post of Additional Village Officer and for the higher post of Village Officer also S.S.L.C is an essential qualification.

7. On a reading of Rule 8, it can be seen that to be eligible for appointment a person has to possess the minimum educational qualification of S.S.L.C or S.S.L.C. Standard test

conducted by the P.S.C for appointment as Clerk. Therefore, the S.S.L.C or S.S.L.C Standard Test are alternate qualification and if a person possesses either of these qualifications he satisfies the general minimum educational qualification laid down in the Rule. The note in the Column - Method of appointment to the post of Additional Village Officer prescribing S.S.L.C is only for the purpose of absorption of an Additional Village Officer in the category of U.D.C/S.V.O. However, the note does not in any way dilute the force of Rule 8 which recognises a pass in the S.S.L.C Standard test as one of the alternate qualification. This is more clear from the proviso to Rule 8 which provides that persons holding the post of Additional Village Officer shall be allowed to continue as such till they acquire the said minimum general educational qualification. This means that if a person holding the post of Additional Village Officer possess the S.S.L.C Standard Test then he is entitled to the benefit of proviso.

8. In this context, it is also to be mentioned that for the post of U.D.C including S.V.O, one of the method of appointment to the post is by promotion from Lower Division Clerks/Village Assistants. For these posts, S.S.L.C. is not mandatory either of

the alternate qualifications in Rule 8 would suffice. If that be so, there is no reason to give a restricted interpretation as is sought to be placed by the learned Government Pleader. In the result, the reasoning of the respondent in Exhibit-P11 that a pass in S.S.L.C Standard test is not an alternate qualification for S.S.L.C cannot be upheld. In my view, the petitioner having passed the S.S.L.C Standard Test satisfies as minimum qualification and he is therefore entitled to be re-designated in the higher post of U.D.C/S.V.O.

Accordingly, I quash Ext.P11 and direct the 2nd respondent to pass orders on Exhibit-P8 in the light of the observations contained herein. Orders on Exhibit-P8 shall be passed within a period of two months from the date of receipt of a copy of this judgment.

The writ petition is disposed of as above.

(ANTONY DOMINIC,JUDGE)

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K.THANKAPPAN,J

CRL.A. NO.92 OF 1999

ORDER

25th May, 2007